

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BIGFOOT VENTURES, LLC,

Plaintiff,

v.

PETER OBERTH,

Defendant.

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x

15 Civ.

COMPLAINT

Bigfoot Ventures, LLC, by its attorneys, makes the following allegations and claims for its Complaint against Peter Oberth (hereinafter referred to as “Oberth” or “Defendant”). The following allegations are made upon information and belief, except as to allegations specifically pertaining to Plaintiff, which are made upon knowledge.

JURISDICTION AND VENUE

1. This Court has jurisdiction over all causes of action asserted herein pursuant to the diversity provisions of 28 U.S.C. §1332(a)(1), because the claims exceed the sum or value of \$75,000.00, exclusive of interest and costs, and the plaintiff is a corporation with its principal place of business in the State of New York and its State of Incorporation in Delaware, and the defendant is a citizen and resident of the State of Georgia.

2. Venue is proper in this District under 28 U.S.C. §1391(b)(2) and (c)(2). The Payment Arrangement forming the subject matter of this action was executed by Defendant with the Plaintiff whose principal place of business is in this District, the Payment Arrangement was delivered by the Defendant to the Plaintiff in the District and required the Defendant making payments to the Plaintiff in the District.

PRELIMINARY STATEMENT

3. Plaintiff brings this action for enforcement of an agreed upon Payment Arrangement (attached hereto as Exhibit A and referred to hereafter as the "Payment Arrangement"), the entirety of which, as well as accrued interest, remains overdue and unpaid. Plaintiff seeks repayment of overdue payments, as well as the continuation of payments until paid in full to the Defendant, according to the explicit terms of the Payment Arrangement.

PARTIES

4. Plaintiff Bigfoot Ventures, LLC (hereinafter "Plaintiff" or "Bigfoot") is a Delaware limited liability company with its principal place of business at 246 West Broadway New York, New York.

5. Defendant Peter Oberth (hereinafter "Defendant" or "Oberth") is an individual and a citizen and resident of Georgia, and the Payment Arrangement forming the subject matter of this litigation lists his address in Canton, Georgia.

STATEMENT OF FACTS

6. Plaintiff approached Defendant to pursue the sale of a domain name known as shakefire.com (the "Site") and October 13, 2014 entered into a stock purchase agreement whereby Plaintiff purchased and Defendant along with two other parties sold the Site to the Plaintiff.

7. After purchase of the Site, on May 1, 2015 Defendant and Plaintiff agreed that Defendant would re-acquire the Site and executed and delivered the Payment Arrangement for the Site for the purchase price of \$400,000, amortized over five years at 4% interest with the first payment to be made on July 1, 2015. Defendant has failed to make a single payment of principal or interest thereunder, and the entirety of this amount remains due and owing.

FIRST CAUSE OF ACTION

Breach of Promissory Note/Commercial Payment Obligation

8. Each of the above allegations is incorporated herein as though recited verbatim and at length.

9. On May 1, 2015, Defendant Peter Oberth, for good and valuable consideration, agreed to the Payment Arrangement for the re-acquisition of the Site in the amount of \$400,000.00, amortized over five years at 4% interest with payment beginning on July 1, 2015.

10. Plaintiff complied with all obligations arising under the Payment Arrangement, and has satisfied all prerequisites for payment.

11. Under the Payment Arrangement, payments of principal and interest were to begin on July 1, 2015.

12. Despite repeated demands, no payment of principal or interest has ever been made under the Payment Arrangement, and the full balance, plus accrued interest remains due and owing.

13. By reason of the foregoing, Plaintiff has been damaged, in an amount of \$400,000.00 in unpaid principal and unpaid interest at the rate of 4.0% per annum as of the date of this Complaint.

SECOND CAUSE OF ACTION

Breach of Contract

14. Each of the above allegations is incorporated herein as though recited verbatim and at length.

15. Plaintiff asserts this cause of action for Breach of Contract alternatively to the First Cause of Action.

16. On May 1, 2015, Defendant and Plaintiff entered into the Payment Arrangement which constitutes a valid and binding agreement supported by valuable consideration.

17. Defendant has intentionally breached the Payment Arrangement by not making payments of principal and interest due thereunder despite repeated demands by Plaintiff.

18. As a result of the breach, Plaintiff has damages, which include, but are not limited to, pecuniary loss and the loss of opportunities to make substantial profits from the contract.

19. Accordingly, Defendant is liable for breach of contract.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment as follows:

- a. Awarding Plaintiff damages for Defendant's breach of his obligations under the Payment Arrangement in the amount of \$\$400,000.00 in unpaid principal and unpaid interest at the rate of 4.0% per annum
- b. Awarding disgorgement of unjustly held property or funds;
- c. Awarding pre- and post-judgment interest;
- d. Awarding Plaintiff costs of this action; and
- e. Awarding Plaintiff such other and further relief as the Court may deem just and proper.

DATED: October 1, 2015



Brian Bellerose, Esq. (BB-2011)
246 West Broadway
New York NY 10013
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Attorneys for Plaintiff

Exhibit A Payment Arrangement



Bigfoot Ventures, LLC
246 West Broadway
New York, NY 10013

212-666-9000 Phone
212-656-1828 Fax

Josh Hammontree
Director of Advertising
josh@corp.bigfoot.com
212-468-5517 Direct

Bigfoot Ventures, LLC | 246 West Broadway | New York, NY 10013

Peter Oberth
1353 Riverstone Parkway #120-161
Canton, GA 30114
USA

May 1, 2015

Re: Payment Arrangement

Dear Mr. Peter Oberth:

On behalf of Bigfoot Ventures, LLC ("Bigfoot"), I offer you this Payment Arrangement.

In accordance with the attached schedule, you agree to re-acquire the assets sold in the Stock Purchase Agreement dated October 14, 2014 between Bigfoot, Peter Oberth, Kara Oberth, and Web Style Media, LLC for a purchase price of \$400,000 (all amounts USD), amortized over five years at 4% interest. Payments shall be payable on the first day of each month, starting July 1, 2015. Bigfoot will keep the security interest in the domain shakefire.com (the "Site"), but you will operate the Site for your own account and under your own company. All expenses incurred in the operation of the Site shall be borne by you, and all taxes incurred based on revenue generated by the Site shall be paid by you.

Bigfoot agrees to stay the proceedings initiated at the American Arbitration Association on April 1, 2015 ("Arbitration") for as long as you are current with all payments, and upon receipt of the full purchase price, withdraw proceedings in the Arbitration as a whole.

If you are in agreement with the terms outlined above, please send us a countersigned copy of this letter "Accepted and Agreed" no later than June 1, 2015, after which this offer is deemed expired.

Best regards,

Bigfoot Ventures, LLC

Josh Hammontree
Director of Advertising

Accepted and agreed:

Peter Oberth



| DATE | PAYMENT | PRINCIPAL | INTEREST | BALANCE |
|----------|------------|------------|------------|--------------|
| Jul 2015 | \$7,366.61 | \$6,033.28 | \$1,333.33 | \$393,966.72 |
| Aug 2015 | \$7,366.61 | \$6,053.39 | \$1,313.22 | \$387,913.34 |
| Sep 2015 | \$7,366.61 | \$6,073.56 | \$1,293.04 | \$381,839.77 |
| Oct 2015 | \$7,366.61 | \$6,093.81 | \$1,272.80 | \$375,745.96 |
| Nov 2015 | \$7,366.61 | \$6,114.12 | \$1,252.49 | \$369,631.84 |
| Dec 2015 | \$7,366.61 | \$6,134.50 | \$1,232.11 | \$363,497.34 |
| Jan 2016 | \$7,366.61 | \$6,154.95 | \$1,211.66 | \$357,342.39 |
| Feb 2016 | \$7,366.61 | \$6,175.47 | \$1,191.14 | \$351,166.92 |
| Mar 2016 | \$7,366.61 | \$6,196.05 | \$1,170.56 | \$344,970.87 |
| Apr 2016 | \$7,366.61 | \$6,216.71 | \$1,149.90 | \$338,754.16 |
| May 2016 | \$7,366.61 | \$6,237.43 | \$1,129.18 | \$332,516.73 |
| Jun 2016 | \$7,366.61 | \$6,258.22 | \$1,108.39 | \$326,258.51 |
| Jul 2016 | \$7,366.61 | \$6,279.08 | \$1,087.53 | \$319,979.43 |
| Aug 2016 | \$7,366.61 | \$6,300.01 | \$1,066.60 | \$313,679.42 |
| Sep 2016 | \$7,366.61 | \$6,321.01 | \$1,045.60 | \$307,358.41 |
| Oct 2016 | \$7,366.61 | \$6,342.08 | \$1,024.53 | \$301,016.33 |
| Nov 2016 | \$7,366.61 | \$6,363.22 | \$1,003.39 | \$294,653.11 |
| Dec 2016 | \$7,366.61 | \$6,384.43 | \$982.18 | \$288,268.68 |
| Jan 2017 | \$7,366.61 | \$6,405.71 | \$960.90 | \$281,862.97 |
| Feb 2017 | \$7,366.61 | \$6,427.07 | \$939.54 | \$275,435.90 |

Initials:


 Josh Hammontree


 Peter Oberth



| DATE | PAYMENT | PRINCIPAL | INTEREST | BALANCE |
|----------|------------|------------|----------|--------------|
| Mar 2017 | \$7,366.61 | \$6,448.49 | \$918.12 | \$268,987.41 |
| Apr 2017 | \$7,366.61 | \$6,469.98 | \$896.62 | \$262,517.43 |
| May 2017 | \$7,366.61 | \$6,491.55 | \$875.06 | \$256,025.88 |
| Jun 2017 | \$7,366.61 | \$6,513.19 | \$853.42 | \$249,512.69 |
| Jul 2017 | \$7,366.61 | \$6,534.90 | \$831.71 | \$242,977.79 |
| Aug 2017 | \$7,366.61 | \$6,556.68 | \$809.93 | \$236,421.10 |
| Sep 2017 | \$7,366.61 | \$6,578.54 | \$788.07 | \$229,842.57 |
| Oct 2017 | \$7,366.61 | \$6,600.47 | \$766.14 | \$223,242.10 |
| Nov 2017 | \$7,366.61 | \$6,622.47 | \$744.14 | \$216,619.63 |
| Dec 2017 | \$7,366.61 | \$6,644.54 | \$722.07 | \$209,975.09 |
| Jan 2018 | \$7,366.61 | \$6,666.69 | \$699.92 | \$203,308.39 |
| Feb 2018 | \$7,366.61 | \$6,688.91 | \$677.69 | \$196,619.48 |
| Mar 2018 | \$7,366.61 | \$6,711.21 | \$655.40 | \$189,908.27 |
| Apr 2018 | \$7,366.61 | \$6,733.58 | \$633.03 | \$183,174.69 |
| May 2018 | \$7,366.61 | \$6,756.03 | \$610.58 | \$176,418.66 |
| Jun 2018 | \$7,366.61 | \$6,778.55 | \$588.06 | \$169,640.12 |
| Jul 2018 | \$7,366.61 | \$6,801.14 | \$565.47 | \$162,838.97 |
| Aug 2018 | \$7,366.61 | \$6,823.81 | \$542.80 | \$156,015.16 |
| Sep 2018 | \$7,366.61 | \$6,846.56 | \$520.05 | \$149,168.60 |
| Oct 2018 | \$7,366.61 | \$6,869.38 | \$497.23 | \$142,299.22 |

Initials:


 Josh Hammontree


 Peter Oberth



| DATE | PAYMENT | PRINCIPAL | INTEREST | BALANCE |
|----------|------------|------------|----------|--------------|
| Nov 2018 | \$7,366.61 | \$6,892.28 | \$474.33 | \$135,406.95 |
| Dec 2018 | \$7,366.61 | \$6,915.25 | \$451.36 | \$128,491.69 |
| Jan 2019 | \$7,366.61 | \$6,938.30 | \$428.31 | \$121,553.39 |
| Feb 2019 | \$7,366.61 | \$6,961.43 | \$405.18 | \$114,591.96 |
| Mar 2019 | \$7,366.61 | \$6,984.64 | \$381.97 | \$107,607.32 |
| Apr 2019 | \$7,366.61 | \$7,007.92 | \$358.69 | \$100,599.41 |
| May 2019 | \$7,366.61 | \$7,031.28 | \$335.33 | \$93,568.13 |
| Jun 2019 | \$7,366.61 | \$7,054.72 | \$311.89 | \$86,513.41 |
| Jul 2019 | \$7,366.61 | \$7,078.23 | \$288.38 | \$79,435.18 |
| Aug 2019 | \$7,366.61 | \$7,101.82 | \$264.78 | \$72,333.36 |
| Sep 2019 | \$7,366.61 | \$7,125.50 | \$241.11 | \$65,207.86 |
| Oct 2019 | \$7,366.61 | \$7,149.25 | \$217.36 | \$58,058.61 |
| Nov 2019 | \$7,366.61 | \$7,173.08 | \$193.53 | \$50,885.53 |
| Dec 2019 | \$7,366.61 | \$7,196.99 | \$169.62 | \$43,688.54 |
| Jan 2020 | \$7,366.61 | \$7,220.98 | \$145.63 | \$36,467.56 |
| Feb 2020 | \$7,366.61 | \$7,245.05 | \$121.56 | \$29,222.51 |
| Mar 2020 | \$7,366.61 | \$7,269.20 | \$97.41 | \$21,953.31 |
| Apr 2020 | \$7,366.61 | \$7,293.43 | \$73.18 | \$14,659.88 |
| May 2020 | \$7,366.61 | \$7,317.74 | \$48.87 | \$7,342.14 |
| Jun 2020 | \$7,366.61 | \$7,342.14 | \$24.47 | \$0.00 |

Initials:

Josh Hammontree

Peter Oberth